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COMMONWEALTH OF MASSACHUSETTS
WORCESTER, ss. SUPERIOR COURT DEPARTMENT
C.A. NO. 2005-00387-A

-----X
TRANS-SPEC TRUCK SERVICE, INC.
d/b/a TRUCK SERVICE,
Plaintiff

vs

MILTON CAT f/k/a
SOUTHWORTH-MILTON, INC.

Defendant

-----X
- and -
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO. 04-11836-RCL

-----X
TRANS-SPEC TRUCK SERVICE, INC.
d/b/a TRUCK SERVICE,
Plaintiff

vs

CATERPILLAR, INC.,

Defendant

-----X

-----X
BRAMANTI & LYONS COURT REPORTING, INC.
REGISTERED PROFESSIONAL REPORTERS
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*** UNEDITED/UNCERTIFIED ROUGH DRAFT COPY ***

1 A. Pretty much so, yes.

2 Q. So once you've installed them on the three
3 mounts, you have the engine installed in the
4 truck?

5 A. In lay mens terms, yes.

6 Q. What differences are there in horsepower between
7 the C12 and the 3176? I understand that there
8 are ranges, so if you could give me the ranges
9 of the horsepower for each?

10 A. I couldn't tell you. I would say upwards to 425
11 maximum.

12 Q. On each or just on the C12?

13 A. C12 can go up to 425.

14 Q. Are there differences in the torque output
15 between the C12 and the 3176?

16 A. Yes.

17 Q. What are those differences?

18 A. Again, depending on horsepower and RPM.

19 Q. The C12 has a higher torque output?

20 A. Not necessarily, depending.

21 Q. But if the horsepower, it it's in the upper
22 ranges, it would be higher than the 3176?

23 A. Could be.

24 Q. Because I think you said earlier that the 3176

1 goes up to around 380 horsepower?

2 A. I believe that's correct.

3 Q. What's the metallic composition of the flywheel
4 house on the C12?

5 A. I beg your pardon?

6 Q. What's the metallic composition on the flywheel
7 house? What's it made out of?

8 A. I believe gray iron.

9 Q. And you said early whier that the C12 has the
10 same flywheel house as the 3176?

11 A. Uh-huh.

12 MR. GRUNERT: You've got to say yes or
13 no.

14 A. Yes.

15 Q. Sometimes it's hard because you have to get this
16 down for the stenographer's benefit and for the
17 record.

18 A. Thank you, sorry.

19 Q. No, not at all.

20 What's the metallic composition of the
21 flywheel bolt on the C12, what's the flywheel
22 bolt made out of?

23 A. Grade 8 steel.

24 Q. Does this difference in the two metals cause any

1 A. He may have asked a question about it, but in
2 relationship to the 3176, the similarities are
3 very, very close to the C12.

4 Q. You told him that the 3176 was similar to the
5 C12?

6 A. Yes.

7 Q. The 3176 and the C12 are a similar engine?

8 MR. GRUNERT: I object to the form.

9 A. Very similar.

10 Q. Is the C12 a revision of the 3176?

11 A. Yes.

12 Q. Do you remember anything more about the
13 conversation with Mr. Lynd regarding the
14 serviceability issues?

15 A. Not that I know of.

16 Q. Did you call him or did he call you, or was it
17 in person?

18 A. It was probably a one-on-one conversation.

19 Q. Do you remember where that was?

20 A. Over at Trans-Spec's facility.

21 Q. What were you doing over at tran speck's
22 facility?

23 A. Andy may have had a question on a given spec or
24 something that he's requested and either I

1 happened to be going by, or stopped over.

2 Q. I may have asked you this, but do you remember
3 when this meeting took place?

4 A. No, I do not.

5 Q. But he had a question about spec regarding the
6 C12?

7 A. Curiosity factor on his behalf.

8 Q. This was around the time that Trans-Spec was
9 purchasing the new trucks?

10 A. I would presume so.

11 Q. Did you have a laptop computer with you at the
12 time that you met with Mr. Lynd?

13 A. More than likely, yes.

14 Q. Did you use that laptop in your conversation
15 with Mr. Lynd?

16 A. I may have.

17 Q. What may have you used the laptop to do with
18 Mr. Lynd during this conversation?

19 A. Be more specific.

20 Q. Well, what did you use the laptop for? You're
21 in a meeting with Mr. Lynd and you had your
22 laptop with you. What did you use it for?

23 A. Unless he wants to program a truck or discuss
24 programming of his customer parameters, there

1 would be no reason for me to use it, unless he
2 brought up a question regarding what is known as
3 Caterpillar E T, electronic technician.

4 Q. During this meeting with Mr. Lynd, did you input
5 various permutations of conditions into the
6 laptop to show Mr. Lynd various capabilities of
7 the C12 or any other Caterpillar engines?

8 A. No.

9 Q. So you went over there around the time that
10 Trans-Spec was looking to purchase the trucks,
11 and you talked to Mr. Lynd about the C12 being
12 similar to the 3176 arcs and you think about
13 some of the specifications of the C12?

14 A. We didn't go into specifications, to my
15 knowledge.

16 Q. And you were never present when Mr. Calderbank
17 gave or showed anyone at Trans-Spec any
18 information regarding the C12 capabilities or
19 comparing it with competitive engines?

20 A. I don't believe so.

21 Q. No such conversation ever took place at the 99
22 restaurant?

23 A. I don't believe so.

24 Q. What is Caterpillar extended service coverage?

1 You at Southworth-Milton goes and contacts the
2 dealer?

3 A. That's correct.

4 Q. And informs them that they're violating the
5 policy, is that correct?

6 A. That's correct.

7 Q. What entity decided to stop providing warranty
8 coverage for Trans-Spec' flywheel housing and
9 flywheel housing bolt failures?

10 A. That was between Troy Guidotti and rob Smith,
11 both service representatives of the Hartford
12 district office.

13 Q. What's Mr. Smith's title?

14 A. At the time, he was the regional service rep
15 from the Hartford district office.

16 Q. And what was Mr. Guidotti's title at the time?

17 A. Also regional service rep.

18 Q. When did they decide to stop providing warranty
19 coverage for Trans-Spec's flywheel housing and
20 flywheel housing bolt failures?

21 A. September of -- I'm going to say either August
22 or September of 2003 or it could be 2002.

23 Q. Do you think it could be 2002?

24 A. When were the delivery of the trucks? They have

1 delivery dates. They were all in January of
2 January of 2005, so five years, 2001. So 2001 I
3 think it was.

4 Q. So this was August or September of 2001?

5 A. I believe it was, yes.

6 Q. Who informed you of this decision that
7 Caterpillar was going to stop providing warranty
8 coverage for Trans-Spec's trucks?

9 MR. GRUNERT: I object to the form.

10 A. Troy Guidotti.

11 Q. Who?

12 A. Troy Guidotti and rob Smith.

13 Q. What did they tell you, that it is not a
14 Caterpillar issue?

15 Q. When did this conversation take place?

16 A. It was 2002, September of 2002.

17 Q. Where?

18 A. Via phone.

19 Q. Who called who?

20 A. I called them.

21 Q. Why?

22 A. Because I wanted to get to the root cause of the
23 problem.

24 Q. What was the problem?

1 reason why? And obviously, I'd have to reply
2 no, I haven't heard of any reasoning what was
3 causing his, the root cause of his problem.

4 Q. Has Caterpillar ever told you the root cause of
5 his problem?

6 A. Nobody has.

7 Q. Is there any permanent fix for the problem that
8 Trans-Spec has been having?

9 A. To my knowledge, not at this point in time.

10 Q. When did you first learn that Trans-Spec was
11 trying to purchase flywheels from other parts
12 dealers?

13 A. Was that a question?

14 Q. Yes, when. I'll repeat it when did you first
15 learn that?

16 A. After September of '03 that they were
17 purchasing, Jay told me that he was purchasing
18 flywheel houseings and replacing them.

19 Q. When you say September of '03, you're dish
20 distinguishing?

21 A. Or thereafter.

22 Q. Is it your understanding that, just so that
23 there is no confusion with the dates, September
24 of '02 is when Caterpillar stopped warranting